

2024 SUPPORTING STATEMENT
Request and Consent Forms for Privacy Records
0503-NEW

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

OMB Memorandum M-21-04 provides guidance for Federal agencies to modernize the processes by which individuals may request access to, and consent to the disclosure of, records protected under the Privacy Act of 1974, 5 U.S.C. § 552a. USDA will accept access and consent requests through USDA's Public Access Link (PAL). The PAL system was enhanced to provide remote identity-proofing and authentication through General Services Administration's login.gov.

- 2. Indicate how, by whom, how frequently, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

Any US Citizen or an alien lawfully admitted for permanent residence, or a parent or guardian of a U.S. citizen or Lawful Permanent Resident seeking access to the records of a minor or a legal guardian seeking access to the records of an individual who has been declared by a court to be incompetent, may now electronically request records based on the Privacy Act of 1974, 5 U.S.C. § 552a, via the USDA's Public Access Link (PAL). Any personally identifiable information (PII) provided to USDA will be utilized to locate the records requested and for Identity-Proofing and Authentication of the requesting individual (via login.gov). Some PII will be required such as name, address, and description of record. Other PII may be provided at the option of the requestor within the description of the record (for example, DOB), and may help USDA locate the record being requested. The individual will provide the information once in the initial request.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.**

USDA is implementing FOIAXpress (via PAL) for electronic Privacy Act requests (currently utilized for electronic FOIA requests) and will provide remote identity proofing and authentication through General Services Administration's (GSA) login.gov.

4. **Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in item 2 above.**

USDA is providing a digital option for individuals to make electronic privacy requests, therefore there is no duplication of information.

5. **If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

This collection will not collect information from small businesses or small entities.

6. **Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

This process is to ensure compliance with the Creating Advanced Streamlined Electronic Services for Constituents Act of 2019 ("CASES Act"), which outline the responsibilities of agencies for accepting access and consent requests provided in a digital format from individuals who are properly identity-proofed and authenticated, which USDA will do via the newly enhanced PAL System (Public Access Link).

Additionally, M-21-04 provides guidance for Federal agencies to modernize the processes by which individuals may request access to, and consent to the disclosure of, records protected under the Privacy Act of 1974, 5 U.S.C. § 552a. USDA will comply with M-21-04 by the processes noted above with the ability to remotely identity proof and authenticate users (via login.gov) and the ability for individuals to electronically request access and provide consent via the newly enhanced PAL system.

7. **Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data**

security policies that are consistent with the pledge, or which unnecessarily impeded sharing of data with other agencies for compatible confidential use; or

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances associated with this information collection.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.**

USDA Notice of Request for Approval of a New Information Collection, Request and Consent Forms for Privacy Records, Volume 87, Issue 204 on October 24, 2022. The term for public comments concluded on December 23, 2022. No public comments were received.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting form, and on the data elements to be recorded, disclosed, or reported.

The agency did seek consultation outside of USDA. The Department privacy office worked with several other Departments and agencies on best implementation practices, including the Department of State, Environmental Protection Agency, FOIA Officers, and numerous internal USDA agencies to determine best practices. This included comparing applications templates, efforts to minimize burden, and efforts to promote consistency. The feedback from these stakeholders was used to improve the final product.

- 9. Explain any decision to provide any payment or gift to respondents, other than reenumeration of contractors or grantees.**

No payments or gifts will be provided.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Freedom of Information Act Express (FOIAXpress) and Public Access Link (PAL) have implemented several layers of protection for assurance of confidentiality. Both systems use the FIPS compliance encryption module for data at rest and in transit, secure transmission protocols, control access through Multifactor Authentication (MFA), and apply the least privileged concept. The system also operates under the NIST Risk Management Framework, which supports Privacy Risk management and meet the Federal Information Security Modernization Act (FISMA) requirements.

Additionally, USDA has a SORN in place to address requests for Privacy Act information, referred to as: [USDA/OCIO-01—Freedom of Information Act Express \(FX\) - 83 FR 14238 -April 3, 2018.](#)

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The information collections do not involve sensitive matters.

- 12. Provide estimates of the hour burden of the collection of information. The statement should:**

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form, and aggregate the hour burdens in Item 13 of OMB Form 83-I.**

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.8 hours per response (0.4 per application).

Type of Respondents: Individuals

Estimated Number of Respondents: 300

Estimated Number of Responses:600

Estimated Number of Responses per Respondent: 2

Estimated Total Annual Burden on Respondents: 240 hours

Based on FOIA reports, we estimated an average of 147 Privacy Act requests per year from 2016-2022. We have estimated an increase in the number of requests since we are offering a new electronic request option. The time to complete these data requests is estimated based on input from the Departmental Forms Department and 508 compliance team.

- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

For individuals to respond, we expect the time to be 0.8 hours to provide the required information The average hourly rate provided by the Bureau of Labor and Statics is \$41.86 (this includes fringe benefits), therefore the total estimated burden cost for completion of both forms has a Total Annual Burden Cost of \$41.86 x 240 Hours = \$10,046.40.

- 13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.**

No capital or start-up costs are associated with this collection.

- 14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.**

Based on FederalPay.org, Privacy Officers at GS-15 average hourly rate ranges from GS-15 \$52.93 - \$68.81, with an average of \$60.87. Therefore, assuming 0.8 hours to review the forms, the expected cost would be \$48.70 per request. Estimating we would receive 300 requests; total burden cost would be \$14,609.00.

- 15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.**

This is a new collection so no program changes or adjustments will be required.

- 16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.**

No results will be published.

- 17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

USDA is not seeking approval to not display the expiration date or the OMB control number.

- 18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act."**

There is no exception to the certification statement.